

TELECOMMUNICATION

Use of 698-806 MHz Band

**Agreement Between the
UNITED STATES OF AMERICA
and MEXICO**

**Amending the Protocol of
November 8, 2006**

Effected by Exchange of Letters
July 19 and 28, 2011



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MEXICO

Telecommunication: Use of 698-806 MHz Band

Agreement amending protocol of November 8, 2006.

Effected by exchange of letters

July 19 and 28, 2011;

Entered into force July 28, 2011.



FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI
CHAIRMAN

July 19, 2011

Mr. Héctor Olavarría Tapia
Under Secretary of Communications
Secretariat of Communications and Transportation
Xola y Avenida Universidad
Cuerpo "C" Primer Piso
C.P. 03020 México D.F.

Dear Mr. Olavarría:

Pursuant to Article IV of the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Allocation and Use of Frequency Bands by Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border* signed at Williamsburg, Virginia on June 16, 1994 (the "1994 Agreement"), the Federal Communications Commission is the designated Administration for the United States under Article II, paragraph 1 of the *Protocol Between the Department of State of the United States of America and the Secretariat of Communications and Transportation of the United Mexican States Concerning the Allotment and Use of the 698-806 MHz Band for Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border*, signed at Mexico City on November 1, 2006, and at Antalya, Turkey on November 8, 2006 (the "2006 Protocol").

As a result of discussions that have taken place under the Bilateral Working Level of the U.S.-Mexico High Level Consultative Commission on Telecommunications (HLCC) and in accordance with Article V of the 1994 Agreement, I am pleased to propose, on behalf of the Federal Communications Commission, that the 2006 Protocol be amended as follows:

Article III, subparagraph 2.a.i shall read as follows:

"(i) The maximum power flux density (PFD) at any point at or beyond the common border of all emissions shall not exceed -96 dBW/m² in any 1 MHz bandwidth;"

Article III, subparagraph 2.a.iv.3 shall read as follows:

"(3) Continue operations with a PFD greater than -96 dBW/m²/MHz either until the operator notifies its counterpart operator(s) that the mutual understanding referred to in the prior subparagraph (subparagraph 2.a.iv.2 of this Article) is cancelled or until the operator is notified by the appropriate Administration to return to the PFD required in subparagraph 2.a.i;"; and

A subparagraph shall be added to Article III, subparagraph 2.a. following subparagraph (iv), which shall read as follows:

“(v) In cases where there is no counterpart operator within 110 km (68.35 miles) of the border, an Administration may apply the following conditions to its operators:

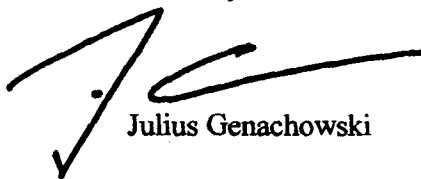
(1) Stations may not produce a PFD that exceeds -96 dBW/m²/MHz, unless otherwise agreed by both Administrations by mutual consent. In case of mutual agreement by both Administrations, the Administration with jurisdiction over the operator seeking to exceed the PFD limit shall provide the necessary authorization for operation at the higher transmission level and the operator shall request such authorization from its Administration;

(2) When an operator within 110 km (68.35 miles) of the border employs a transmission level greater than -96 dBW/m²/MHz at the common border and is notified of startup operations by a counterpart operator on the other side of the border, both operators shall coordinate appropriate technical and operational network parameters and seek coordination using the process set forth in subparagraph 2.a.iv. above; and”.

Lastly, the pre-existing subparagraph 2.a.v of Article III shall be relabeled subparagraph 2.a.vi.

If the above-proposed amendments are acceptable to the Secretariat of Communications and Transportation, I further propose that this letter and your affirmative letter in reply shall constitute an agreement between the Federal Communications Commission of the United States of America and the Secretariat of Communications and Transportation of the United Mexican States to amend the 2006 Protocol, which agreement shall enter into force on the date of your letter in reply. The above provisions of this letter have no affect on both Administrations' commitment to start the process leading to the signing of the related amendments to the Protocol in question so as to reflect the changes contained in this document, as well as those deemed convenient in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julius Genachowski', with a stylized flourish at the end.

Julius Genachowski



SECRETARIA DE COMUNICACIONES

Y
TRANSPORTES

Forma C. G.-1-A

Subsecretaría de Comunicaciones

2.- 045 / 2011

México, D.F., a 28 JUL. 2011

Sr. Julius Genachowski
Presidente, Comisión Federal de Comunicaciones
445 Twelfth Street, SW
Washington, DC 20554

Estimado Presidente Genachowski:

Me refiero a su carta de fecha 19 de julio de 2011 relativa a una propuesta de enmienda al *Protocolo entre la Secretaría de Comunicaciones y Transportes de los Estados Unidos Mexicanos y el Departamento de Estado de los Estados Unidos de América, relativo a la Adjudicación y Uso de la Banda de 698-806 MHz para Servicios de Radiocomunicación Terrenal Excepto Radiodifusión a lo Largo de la Frontera Común*, firmado en la Ciudad de México el 1 de noviembre de 2006, y en Antalya, Turquía el 8 de noviembre de 2006 (el "Protocolo de 2006"), la cual, en su parte pertinente, establece lo siguiente:

"Con arreglo al Artículo IV del *Acuerdo entre el Gobierno de los Estados Unidos Mexicanos y el Gobierno de los Estados Unidos de América relativo a la Atribución y el Uso de las Bandas de Frecuencia por los Servicios Terrenales de Radiocomunicaciones, excepto Radiodifusión a lo Largo de la Frontera Común*, firmado en Williamsburg, Virginia el 16 de junio de 1994 (el "Acuerdo de 1994"), la Comisión Federal de Comunicaciones (*Federal Communications Commission*) es la Administración designada por los Estados Unidos de América conforme al párrafo 1, Artículo II del *Protocolo entre la Secretaría de Comunicaciones y Transportes de los Estados Unidos Mexicanos y el Departamento de Estado de los Estados Unidos de*



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América, relativo a la Adjudicación y Uso de la Banda de 698-806 MHz para Servicios de Radiocomunicación Terrenal Excepto Radiodifusión a lo Largo de la Frontera Común, firmado en la Ciudad de México el 1 de noviembre de 2006, y en Antalya, Turquía el 8 de noviembre de 2006 (el "Protocolo de 2006"). Como resultado de las discusiones sostenidas en el Grupo de Trabajo Bilateral de la Comisión Consultiva de Alto Nivel de Telecomunicaciones (CCAN), y conforme al Artículo V del Acuerdo de 1994, me complace proponer, en nombre de la Comisión Federal de Comunicaciones, que el Protocolo de 2006 sea enmendado de la siguiente forma:

El inciso 2.a.i del Artículo III deberá reflejar la siguiente redacción:

'(i) La máxima densidad de flujo de potencia (DFP) de todas las emisiones no deberá exceder de -96 dBW/m^2 en la frontera o más allá de ésta en ningún ancho de banda de 1 MHz'.

El inciso 2.a.iv.3 del Artículo III deberá reflejar la siguiente redacción:

'(3) Continuar las operaciones con una DFP superior a $-96 \text{ dBW/m}^2/\text{MHz}$ hasta que el operador notifique a su operador contraparte que el entendimiento mutuo a que se refiere el inciso anterior (el inciso 2.a.iv. 2 de este Artículo) ha sido revocado o hasta que la Administración pertinente notifique al operador que debe retornar a la DFP que exige el inciso 2.a.i', y



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Se añadirá un inciso al inciso 2.a del Artículo III, a continuación del inciso (iv), que diga lo siguiente:

(v) Cuando no haya un operador contraparte a una distancia de no más de 110 km (68.35 millas) de la frontera, una Administración podrá imponer las siguientes condiciones a sus operadores:

(1) Las estaciones no generarán una DFP que exceda de $-96 \text{ dBW/m}^2/\text{MHz}$, salvo acuerdo en contrario por consentimiento mutuo entre las dos Administraciones. En caso de acuerdo mutuo entre las dos Administraciones, la Administración que tenga la jurisdicción sobre el operador interesado en rebasar el límite de la DFP deberá conceder la autorización necesaria para el funcionamiento a un nivel superior de transmisión y el operador solicitará dicha autorización a su Administración;

(2) Cuando un operador que esté a una distancia de 110 km (68.35 millas) o menos de la frontera utilice un nivel de transmisión superior a $-96 \text{ dBW/m}^2/\text{MHz}$ en la frontera común y sea notificado del inicio de funcionamiento por un operador contraparte del otro lado de la frontera, ambos operadores deberán coordinar los debidos parámetros técnicos y operativos de la red y buscarán la coordinación mediante el procedimiento al que se refiere el anterior inciso 2.a.iv, y'.

Por último, el inciso preexistente 2.a.v del Artículo III deberá ser numerado inciso 2.a.vi."

De conformidad con el párrafo 1 del Artículo III del Protocolo de 2006, donde se designa a la Secretaría de Comunicaciones y Transportes como la Administración designada por los Estados Unidos Mexicanos, me complace



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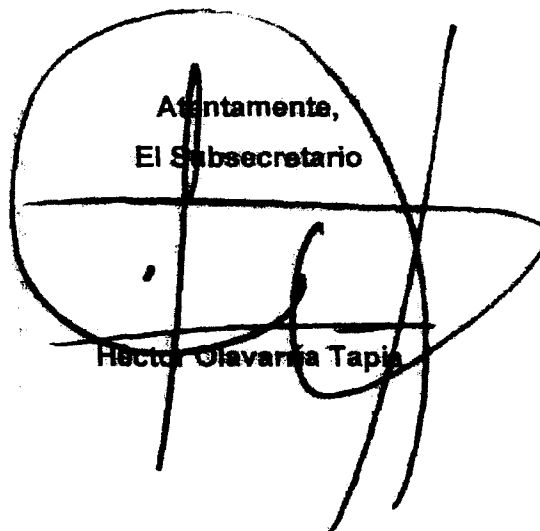
Y

TRANSPORTES

informarle que las enmiendas que propone resultan aceptables para la Secretaría de Comunicaciones y Transportes. Por lo que no existe inconveniente en que su carta y la presente carta de respuesta constituyan un acuerdo entre la Secretaría de Comunicaciones y Transportes de los Estados Unidos Mexicanos y la Comisión Federal de Comunicaciones de los Estados Unidos de América para enmendar el "Protocolo de 2006," mismo que entrará en vigor a partir de la fecha de la presente. Lo anterior sin perjuicio del compromiso de ambas Administraciones de iniciar el proceso para la suscripción de las enmiendas correspondientes al Protocolo en comento que reflejen los cambios contenidos en el presente escrito, así como aquellos cambios que en un futuro se estimen convenientes.

Sírvase aceptar la expresión de mi más alta y distinguida consideración.

Atentamente,
El Subsecretario



Hector Olaveria Tapia

C.c. p.- Mtro. Dionisio Pérez-Jácome Friscione.- Secretario de Comunicaciones y Transportes.

Mtro. Mony de Swaan Addati.- Presidente.- Comisión Federal de Telecomunicaciones.

[TRANSLATION TO ENGLISH OF MEXICO'S LETTER-IN-REPLY]

UNITED MEXICAN STATES

Under Secretariat of Communications

[Seal]

2.- 045/2011

SECRETARIAT OF COMMUNICATIONS
AND TRANSPORTATION

Mexico City, on 28 Jul 2011

Mr. Julius Genachowski
Chairman, Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

I refer to your letter dated July 19, 2011 regarding a proposed amendment to the *“Protocol Between the Department of State of the United States of America and the Secretariat of Communications and Transportation of the United Mexican States Concerning the Allotment and Use of the 698-806 MHz Band for Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border,”* signed at Mexico City on November 1, 2006, and at Antalya, Turkey on November 8, 2006 (the “2006 Protocol”), which, in relevant part, establishes the following:

Pursuant to Article IV of the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Allocation and Use of Frequency Bands by Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border* signed at Williamsburg, Virginia on June 16, 1994 (the “1994 Agreement”), the Federal Communications Commission is the designated Administration for the United States under Article II, paragraph 1 of the *Protocol Between the Department of State of the United States of America and the Secretariat of Communications and Transportation of the United Mexican States Concerning the Allotment and Use of the 698-806 MHz Band for Terrestrial Non-Broadcasting Radiocommunication Services Along the Common Border*, signed at Mexico City on November 1, 2006, and at Antalya, Turkey on November 8, 2006 (the “2006 Protocol”). As a result of discussions that have taken place under the Bilateral Working Level of the U.S.-Mexico High Level Consultative Commission on Telecommunications (HLCC) and in accordance with Article V of the 1994 Agreement, I am pleased to propose, on behalf of the Federal Communications Commission, that the 2006 Protocol be amended as follows:

Article III, subparagraph 2.a.i shall read as follows:

“(i) The maximum power flux density (PFD) at any point at or beyond the common border of all emissions shall not exceed -96 dBW/m² in any 1 MHz bandwidth;”;

Article III, subparagraph 2.a.iv.3 shall read as follows:

“(3) Continue operations with a PFD greater than -96 dBW/m²/MHz either until the operator notifies its counterpart operator(s) that the mutual understanding referred to in the prior subparagraph (subparagraph 2.a.iv.2 of this Article) is cancelled or until the operator is notified by the appropriate Administration to return to the PFD required in subparagraph 2.a.i; and”; and

A subparagraph shall be added to Article III, subparagraph 2.a., which subparagraph (2.a.v) shall read as follows:

“(v) In cases where there is no counterpart operator within 110 km (68.35 miles) of the border, an Administration may apply the following conditions to its operators:

(1) Stations may not produce a PFD that exceeds -96 dBW/m²/MHz, unless otherwise agreed by both Administrations by mutual consent. In case of mutual agreement by both Administrations, the Administration with jurisdiction over the operator seeking to exceed the PFD limit shall provide the necessary authorization for operation at the higher transmission level and the operator shall request such authorization from its Administration;

(2) When an operator within 110 km (68.35 miles) of the border employs a transmission level greater than -96 dBW/m²/MHz at the common border and is notified of startup operations by a counterpart operator on the other side of the border, both operators shall coordinate appropriate technical and operational network parameters and seek coordination using the process set forth in subparagraph 2.a.iv. above; and”.

Lastly, subparagraph 2.a.v of Article III shall be relabeled as subparagraph 2.a.vi.

In accordance with Article III, paragraph 1 of the 2006 Protocol, where the Secretariat of Communications and Transportation is designated as the Administration of the United Mexican States, I am pleased to inform you that your proposed amendments are acceptable to the Secretariat of Communications and Transportation. Consequently, the Secretariat of Communications and Transportation finds it appropriate to agree that your letter and this letter in reply shall constitute an agreement between the Federal Communications Commission of the United States and the Secretariat of Communications and Transportation of the United Mexican States to amend the “2006 Protocol,” which agreement shall enter into force starting on the date of this letter. The above provisions of this letter have no affect on both Administrations’ commitment to start the process leading to the signing of the related amendments to the Protocol in question so as to reflect the changes contained in this document, as well as those deemed convenient in the future.

Please accept this expression of my highest and distinguished consideration.

Sincerely,
The Under Secretary

/Original Signed by *Héctor Olavarría Tapia*/

Héctor Olavarría Tapia

Copy to: Mr. Dionisio Pérez-Jácome Friscione, Secretary of Communications and Transportation (SCT);
Mr. Mony de Swaan Addati, Chairman, Federal Telecommunications Commission (COFETEL).